

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 05-0405
Adjusted Gross Income Tax
For the Tax Period 2003

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ISSUES

1. Adjusted Gross Income Tax –Withholding Credit

Authority: IC 6-8.1-5-1 (b), IC 6-3-2-1, IC 6-3-4-15.7.

The taxpayer protests the assessment of adjusted gross income tax on unreported gross income.

STATEMENT OF FACTS

The taxpayers are a married couple. They filed an amended return for 2003 to include additional income from a retirement distribution on which Indiana adjusted gross income taxes were withheld. When they filed the amended return and paid the associated tax liability, they failed to send in the 1099R indicating the amount of Indiana adjusted gross income taxes withheld from the retirement income. Upon review of the return, the Indiana Department of Revenue (department) disallowed the credit the taxpayers' claimed for the withholding. As a result the department sent the taxpayers a bill for the additional Indiana adjusted gross income, interest, and penalty. The taxpayer's protested the assessment and a hearing was held.

1. Adjusted Gross Income Tax-

DISCUSSION

Indiana Department of Revenue assessments are presumed to be correct. The taxpayer bears the burden of proving that any assessment is incorrect. IC 6-8.1-5-1 (b).

An adjusted gross income tax is imposed upon all Indiana residents. IC 6-3-2-1. Payers of retirement plans are generally required to withhold Indiana adjusted gross income taxes from payments to taxpayers. Those withheld taxes must be remitted to the state and credited to the account of the taxpayers. IC 6-3-4-15.7. In this situation, the retirement income payee actually withheld Indiana adjusted gross income taxes and remitted them to

the state. The taxpayer provided the 1099 R to prove that the taxes were withheld and credited to the taxpayer's 2003 Indiana adjusted gross income tax.

The taxpayers sustained their burden of proving that they paid the proper amount of Indiana adjusted gross income taxes to the state.

Finding

The taxpayer's protest is sustained.

KMA/JMM/DK/06/21/02